

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

CITY AND COUNTY OF SAN
FRANCISCO,

Plaintiff,

v.

FACTORY MUTUAL INSURANCE
COMPANY,

Defendant.

No. C 04-5307 PJH

**ORDER RE MOTION TO SEVER AND
CROSS-MOTIONS FOR SUMMARY
JUDGMENT**

AND RELATED COUNTERCLAIMS

The motion of defendant and counterclaimant Bombardier Transportation (Holdings) USA, Inc. ("Bombardier"), to sever the claims asserted against it, and its counterclaims, and the cross-motions for summary judgment of plaintiff City and County of San Francisco ("CCSF") and defendant Factory Mutual Insurance Company ("FMIC") came on for hearing before this court on March 15, 2006. Bombardier appeared by its counsel Gayle M. Athanacio and Otto F. Becker, CCSF appeared by its counsel Timothy A. Colvig and Kris A. Cox, and FMIC appeared by its counsel Joyce C. Wang.

For the reasons stated at the hearing, Bombardier's motion to sever is DENIED, and the cross-motions for summary judgment are DENIED WITHOUT PREJUDICE to refiling after the parties have completed a period of discovery.

The parties shall have until June 14, 2006 to engage in limited discovery on the two issues raised in CCSF's and FMIC's cross-motions for summary judgment, and on the questions raised in the sixth cause of action in the second amended complaint, as discussed at the hearing.

1 The parties shall file motions for summary judgment no later than July 19, 2006,
2 noticed for hearing on August 23, 2006, in accordance with the Civil Local Rules. The
3 motions shall be limited to the two issues raised in the previously-filed cross-motions, and
4 to the issue of the extent to which Bombardier's recovery, if any, against CCSF should be
5 limited to the amount of any recovery awarded to CCSF under the FMIC policy.

6
7 **IT IS SO ORDERED.**

8 Dated: March 17, 2006



PHYLLIS J. HAMILTON
United States District Judge